

Remarks

Claims 1-6, 8-9, and 11-30 are pending.

The Examiner rejected Claims 1-6, 8-9, 11 and 15-25 and 29-30 under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent 6,456,854 ("Chern"). With respect to Claims 1 and 17, the Examiner states:

In regards to claims 1 and 17, Chern discloses a method and system from tracking mobile telephone devices (column 1 line 57-59). Chern discloses that when a user requests information the hand set provides the location of the handset to the server (column 4, lines 47-48). This meets the limitation of "generating a message from a mobile device, the message having significance independent of reporting a geographical location of the mobile device; and attaching to an overhead portion of the message an automatically generated location stamp indicating the geographical location of the mobile device as an origin of the message." Referring to the limitation "attaching to an overhead portion of the message..." Chern inherently teaches including the location information in the header of the message because Chern teaches sending the messages with the location included in it (see Figs. 4-6).

Applicants respectfully traverse the Examiner's rejection. Claims 1 and 17 each recite that the location timestamp is attached to an overhead portion of each message generated:

1. A messaging method comprising:

generating a message from a mobile device, the message having significance independent of reporting a geographical location of the mobile device; and

attaching to an overhead portion of the message an automatically generated location stamp indicating the geographical location of the mobile device as an origin of the message.

17. A system including a mobile device, comprising:

a transmitter;

a locating device which provides a geographical

location of the mobile device;

an interface to an application program presented to a user to allow a user generate a message having a significance independent of reporting a location of the mobile device; and

a control unit coupled to the transmitter, wherein for each message transmitted from the transmitter, the control unit receives the geographical location from the locating device and attaches a location stamp to an overhead portion of the message indicating the geographical location to the message.

(emphasis added)

The limitations underscored above are discussed, for example, in Applicants' Specification, on page 9, at lines 6-15. As explained in Applicants' Amendment of October 21, 2005, embedding the location stamp in the overhead portion of the message allows the location stamp to be transparent to application programs that do not take advantage of the location stamp, and thus requires no modification of any such application program, whether the application program is on the sender's side or on the recipient side. Embedding the location stamp in the overhead portion also prevents maliciously tempering with the location stamp at the application program.

Neither embedding the location stamp in an overhead portion of a message, nor its attendant benefits, is disclosed or suggested by Chern. Contrary to the Examiner's contention, embedding a location stamp in an overhead portion of the message is not inherently taught in Chern. Even though Chern teaches sending GPS location to a server at Figs. 4-6, Chern does not disclose or suggest including the GPS location in an overhead portion of the message. In fact, as explained in Applicants' Specification, at page 1, lines 18-28, prior art systems only include location information in the payload portion of a message.

As discussed in the MPEP § 2131.01(III), to show inherency the Examiner must establish that the silent teaching is necessarily present in the reference:

To serve as an anticipation when the reference is silent about the asserted inherent characteristic, such gap in the reference may be filled with recourse to extrinsic evidence. Such evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991)

Since the Examiner has failed to show that Chern's location stamp is necessarily embedded in the overhead portion of the message, Applicants respectfully submit that the Examiner's rejection is in error. Thus, Applicants respectfully submit that Claims 1 and 17 and their respective dependent Claims 2-6, 8-9, 11, 15-16, 18-25 and 29-30 are each allowable over Chern. Reconsideration and allowance of these claims are therefore requested.

The Examiner rejected Claims 12-14 and 26-28 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,067,854 ("Ray"). The Examiner states:

15. ... Chern however does not disclose "wherein the action is a delivery," "a charge to an account," or "the charge is a credit card charge."

16. Referring to the instant claims, Ray teaches that when a consumer makes a purchase, the sales terminal can generate a short message along with the detailed purchase information (Ray: Abstract). A menu can be displayed on the phone and the consumer can select the desired credit card number and request a receipt. The credit card number can be sent along with the transport address or alias address to the sales terminal for authorization of the credit card number (Ray: column 3, lines 52-67; column 4, lines 1-14).

21. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method of sending a location identifier with a request from a mobile phone as disclosed in Chern with the method of sending a credit card number across a mobile

phone as disclosed in Ray in order to provide substantially immediate purchase information to consumers in a paper-less environment (Ray: column 2, lines 5-7).

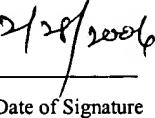
Applicants respectfully traverse the Examiner's rejection. Claims 12-14 and 26-28 depend respectively from Claims 1 and 17, and are thus each allowable over Chern for the reasons stated above. As Ray neither discloses nor suggests providing a location stamp in the overhead portion of a message, as recited in each of Claims 12-14 and 26-28, Applicants respectfully submit that Claims 12-14 and 26-28 are each allowable over the combined teachings of Chern and Ray. Accordingly, reconsideration and allowance of Claims 12-14 and 26-28 are requested.

All claims (i.e., Claims 1-6, 8-9, 11-30) are therefore believed allowable. If the Examiner has any question regarding the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicants at 408-392-9250.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 28, 2006.

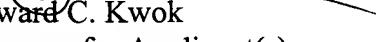


Attorney for Applicant(s)

2/28/2006


Date of Signature

Respectfully submitted,


Edward C. Kwok
Attorney for Applicant(s)
Reg. No. 33,938

Law Offices of
MacPherson Kwok Chen & Heid LLP
1762 Technology Drive, Suite 226
San Jose, CA 95110
Tel: (408) 392-9250
Fax: (408) 392-9262

LAW OFFICES OF
MacPherson, Kwok, Chen &
Heid LLP
1762 Technology Drive, Suite 226
San Jose, CA 95110
(408)-392-9250
FAX (408)-392-9262